HON'BLE MR JUSTICE A. GOPAL REDDY

WRIT PETITION NO.2416 OF 2000

DATE:03.04.2006

Between:

Smt. N.Nazinee Begum

..... PETITIONER

AND

The Revenue Divisional Officer,
Anantapur & another.

.....RESPONDENTS

HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.2416 OF 2000

ORDER:

The notification, dated 7.2.2000 issued by the first respondent inviting the applications from the Scheduled Caste (General) candidates for filling up the regular vacancy in respect of Ward No.23 fair price shop, is challenged in the present writ petition.

It is not in dispute that on the death of Smt. Lusy Mary, the dealer of fair price shop of 23rd ward of Anantapur town, to avert the inconvenience to the ration card holders, the first respondent appointed the petitioner as a temporary dealer on 6.11.1999 till a regular dealer is appointed on permanent basis. Questioning the appointment of the petitioner as a temporary fair price shop dealer, one Kum. B. Suneetha preferred an appeal before the Joint collector, who set aside the orders of the first respondent dated 6.11.1999 appointing the petitioner as a temporary fair price shop dealer and directed the first respondent to notify the fair price shop vacancy on permanent basis. Aggrieved by that, the petitioner filed a petition before the Joint Collector to direct the second respondent to allow her to run the fair price shop till the disposal of the appeal and requested to modify the orders passed by the Joint Collector. The Joint Collector partially modified the orders directing the first respondent to notify the vacancy within a month with a further direction to continue the petitioner till the vacancy is filled up. In the present writ petition, the petitioner questions the reservation of the vacancy made in favour of Scheduled Caste (General) candidate alleging that the said notification was issued only to gain votes from the members of the Scheduled Caste community in the ensuing municipal election, for which receiving of nominations was fixed from 14.2.2000 to 23.2.2000.

In the counter affidavit filed by the respondents, it is categorically stated that as per G.O.Ms.No.198, FCS & CA (CS.IV) Department, dated 5.2.1996 the vacancy of fair price shop should be filled up on permanent basis. It is stated that out of 850 fair price shops in Anantapur Revenue Division, 123 shops are held by Scheduled Caste candidates; 22 shops are held by Scheduled Tribe candidates; 186 shops are held by the Backward Caste candidates; 14 shops are held by the physically handicapped persons; 61 shops are held by cooperative societies; and 428 shops are held by others. Still, as there are 16 vacancies for the fair price shops, keeping the revenue division as a unit, notification has been issued duly reserving the categories i.e. four fair price shop vacancies to Scheduled Caste candidates; eight fair price shop vacancies to Backward Caste candidates; three fair price shop vacancies to Physically Handicapped candidates; and one to O.C. (Lady) during the month of February, 2000. It is stated that according to reservation, 15 per cent should be provided to Scheduled Caste candidates and as 127 shops are being held by Scheduled Caste candidates, the balance four shop vacancies were notified to Scheduled Caste candidates during the month of February, 2000. Finally, it is stated that the reservation is made in accordance with G.O.Ms.No.198, dated 5.2.1996 and stated that the impugned notification is nothing to do with the alleged ensuing municipal elections to Anantapur Municipality.

Admittedly, the petitioner has only been appointed as a temporary dealer till the regular vacancy is filled up to Ward No.23, and hence, she will not have any right to seek for continuation of licence in her favour. Further, the respondents in the counter affidavit categorically stated that the reservation is made in accordance with G.O.Ms.No.198, dated 5.2.1996. Merely because previously the fair

price shop was held by O.C. candidate, the petitioner will not have any vested right to seek for continuation of licence in her favour. Further, pending the writ petition, since no interim orders have been passed, by this time, the respondent-authorities might have appointed a regular fair price shop dealer. Therefore, in the absence of the persons, who are likely to be affected, no mandamus can be issued as prayed for and hence, the writ petition is liable to be dismissed.

Accordingly, the writ Petition is dismissed. No costs.

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A. GOPAL REDDY, J

3rd APRIL, 2006.
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